

April 7, 2020

The Honorable Steven Mnuchin
Secretary
U.S. Department of the Treasury
1500 Pennsylvania Avenue Northwest
Washington, D.C. 20220

The Honorable Jovita Carranza
Administrator
U.S. Small Business Administration
409 Third Street Southwest
Washington, D.C. 20416

Dear Secretary Mnuchin and Administrator Carranza:

Thank you for your extensive work in implementing the recently enacted Coronavirus Aid, Relief, and Economic Security (CARES) Act to swiftly deliver relief to small business across the country. As the Administration continues this important work, I write to bring your attention to an implementation issue that unnecessarily excludes many small tribal gaming businesses from the Paycheck Protection Program (PPP) contrary to the congressional intent of the legislation.

The Paycheck Protection Program created in the CARES Act was intended to be a new, separate and more inclusive program than traditional 7(a) loans or Economic Industry Disaster Loans (EIDL) administered by the Small Business Administration (SBA). In practical terms, Congress created the PPP to ensure tangible financial relief could be delivered to the broadest section of small businesses as possible. To this end, the legislation specifically includes “any... tribal business concerns” under 500 employees as eligible entities for the PPP.

However, the interim final rule issued by SBA on April 2, 2020 contradicts the legislative as well congressional intent by instituting restrictions on the type of tribal business concerns that are eligible for the PPP by invoking regulations intended for the existing EIDL program (13 CFR §120.110). This regulation, which prohibits participation by enterprises who receive more than one-third of their income from legal gambling activities, may be appropriate for other SBA programs but is inconsistent and contrary the purpose of the new and separate Paycheck Protection Program.

Tribal gaming enterprises provide thousands of jobs for both native and non-native employees, often in rural areas of the country. Even small gaming operations under 500 employees are frequently among the largest employers in their communities. The PPP is about keeping employees connected with their employers so that small businesses can quickly ramp back up their economic activity and help lift their communities into recovery after this health crisis is addressed. To ensure the PPP can fulfil this purpose, we respectfully request that the SBA issue updated guidance to clarify that any tribal business, including tribal gaming enterprises, are eligible for the PPP as Congress intended.

Thank you for your consideration of this critical issue for Indian Country. We appreciate the speed with which Treasury and the Small Business Administration have begun executing the provisions of the CARES Act. We look forward to continuing our work with the Administration to provide relief to Americans in this challenging time.

Sincerely,



Martha McSally
United States Senator



Steve Daines
United States Senator



Kevin Cramer
United States Senator